

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

James Edward Cook, Jr.,

Plaintiff,

Case No. 1:20-cv-00022

v.

Judge Michael R. Barrett

Scioto County Jail, et al.,

Defendants.

ORDER

This matter is before the Court on the Magistrate Judge's March 3, 2020 Report and Recommendation ("R&R") that Plaintiff's Complaint be dismissed with prejudice, pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1), except for his claims against Captain Carter and Ms. Powell. (Doc. 8). Proper notice has been given to the parties, including notice that the parties would waive further appeal if they failed to file objections to the R&R in a timely manner. (*Id.*, PageID 101); see *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Plaintiff filed timely objections. (Doc. 10). The Magistrate Judge provided a comprehensive review of the record in the R&R and the same will not, and need not, be repeated here.

With respect to dispositive matters, and when the Court receives timely objections to an R&R, the assigned "district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to." FED. R. CIV. P. 72(b)(3). "The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." *Id.*

Plaintiff's objects to the Court dismissing anything and reiterates the arguments found in his Complaint. *Compare* (Doc. 10, PageID 106), *with* (Doc. 7). After a liberal review of Plaintiff's filing (Doc. 10), the Court finds that this portion of his filing is nothing more than a general disagreement with the R&R, which is insufficient to direct the Court's attention to a specific issue with the recommendation of dismissal of his claims except for those against Captain Carter and Ms. Powell. See *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (holding that the objections of a petitioner appearing pro se will be construed liberally); *Aldrich v. Bock*, 32 F.Supp. 2d 743, 747 (E.D. Mich. 2004) ("An 'objection' that does nothing more than state a disagreement with a magistrate [judge]'s suggested resolution, or simply summarizes what has been presented before, is not an 'objection' as that term is used in this context.").

Turning to Plaintiff's request for his immediate release from custody (Doc. 10, PageID 107), the Magistrate Judge correctly explained that "to the extent that [he] seeks immediate release from custody, the proper mechanism for [him] to challenge his present physical custody is a petition for writ of habeas corpus" pursuant to 28 U.S.C. § 2254 and not this prisoner civil rights action brought pursuant to 42 U.S.C. § 1983. (Doc. 8, PageID 97). Cf. *Battey v. Hawaii*, No. CIV 09-00252 SOM-LEK, 2009 WL 2356797, at *3 (D. Haw. July 30, 2009) ("A petition for writ of habeas corpus is the proper mechanism for challenging the 'legality or duration' of a prisoner's confinement; a civil rights complaint is the proper method for challenging a prisoner's conditions of confinement.") (quoting *Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991)).

Finally, Plaintiff asks the Court to "please check 3:20cv0011 in W[est] V[irginia]" as "they are connected." (Doc. 10, PageID 107). Plaintiff does not state if that allegedly

related case is in federal court or, assuming that it is, in the U.S. District Court for the Northern District of West Virginia or the U.S. District Court for the Southern District of West Virginia. More importantly he does not explain how that case and his case in this District are connected and, although the Court can liberally interpret Plaintiff's objections, it will not manufacture arguments on his behalf. See *Erickson*, 551 U.S. at 94.

For the foregoing reasons, it is hereby **ORDERED** that the Magistrate Judge's Report and Recommendation (Doc. 8) is **ADOPTED**. Consistent with those recommendations, it is **ORDERED** that Plaintiff's Complaint is **DISMISSED with prejudice** except for his claims against Captain Carter and Ms. Powell.

IT IS SO ORDERED.

s/ Michael R. Barrett
Michael R. Barrett, Judge
United States District Court